

## § 1944.158

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equipment, or the purchase of land for the housing site.

[45 FR 47655, July 16, 1980, as amended at 48 FR 7159, Feb. 18, 1983; 48 FR 44762, Sept. 30, 1983; 50 FR 8590, Mar. 4, 1985; 56 FR 28474, June 21, 1991; 58 FR 44753, Aug. 25, 1993; 64 FR 24480, May 6, 1999; 67 FR 66310, Oct. 31, 2002]

### § 1944.158 Loan and grant purposes.

LH loans and grants may be made to qualified applicants to:

(a) Build, buy, improve or repair housing as defined in § 1944.153(b).

(b) Purchase and improve the necessary land on which the housing will be located.

(1) The cost of land purchased with loan or grant funds may not exceed its present market value in its present condition. Present market value will be determined by a current appraisal in accordance with subpart B of part 1922 of this chapter.

(2) Loan or grants funds will not be used to buy land from a member of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior approval of the State Director. In granting this approval the State Director should be sure that the purchase price does not exceed the present market value.

(3) Loan or grant funds may not be used to acquire land in excess of that needed for the housing, including related facilities, except when the applicant cannot acquire only the needed land at a fair price, can justify the acquisition, agrees to sell the excess land as soon as practicable and apply proceeds on the loan, and has legal authority to acquire and administer the land.

(c) Develop and install water supply, sewage disposal, streets, storm water retention facilities or areas, and heat and light systems necessary in connection with the housing. If the facilities are located offsite, the following requirements must be met:

(1) The applicant will hold the title to the facility or have a legally assured adequate right to use of the facility for at least the life of the loan or grant and such title or right can be transferred to any subsequent owner of the site.

(2) The facilities are provided for the exclusive use of the LH project or funds

are limited to the prorated part of the total cost of the facility according to the use and benefit to the project. The applicant will agree in writing to the application of extra payments on the LH loan of any subsequent collection by the applicant from other users or beneficiaries of the facility.

(3) Adequate security can be obtained with or without a mortgage based on the offsite facilities.

(d) Construct other related facilities in connection with the housing such as:

(1) Maintenance workshop and storage facilities.

(2) Recreation center including lounge if the project is large enough to justify such a facility.

(3) Central cooking and dining facilities when the project is large enough to justify such services.

(4) Small infirmary for emergency care only when justified.

(5) Laundry room and equipment, including clotheslines, if not provided in the individual units.

(6) Appropriate outdoor recreational facilities and other facilities to meet essential needs.

(7) Child day care facilities when needed and feasible.

(8) Trash retention areas if necessary.

(9) Outdoor lighting in pedestrian areas where use is anticipated after sunset.

(e) Construct office and living quarters for the resident manager and other operating personnel if needed and advantageous to the project and the Government.

(f) Purchase and install ranges, refrigerators, drapes, drapery rods, clothes washers, and clothes dryers. If individual washer and dryer hookups are provided, clothes washers and clothes dryers may be installed in individual rental units only if the inclusion of such items in individual units is needed and is customary in the area for the type of housing involved and is consistent with the requirement that the construction be undertaken in an economical manner and not constitute elaborate or extravagant items. Otherwise, the clothes washers and clothes dryers must be installed in a central laundry room. The number of washers and dryers must be adequate to serve

the tenant needs. Whenever practical, this equipment should be attached to the real property in a manner to prevent easy removal.

(g) Purchase and install essential equipment which upon installation becomes a part of the real estate.

(h) Provide landscaping, foundation planting, seeding or sodding of lawns, and necessary facilities related to buildings such as walks, yards, fences, parking areas, and driveways.

(i) Provide loan/grant funds to enable a nonprofit group or public body to be reimbursed for technical assistance received from a nonprofit organization, with housing and/or community development experience, to assist the nonprofit applicant entity in the development and packaging of its loan/grant docket and project.

(1) Loan and grant funds may also be used to reimburse any appropriate and necessary legal, architectural, engineering, technical, and professional fees.

(2) Costs incurred by the nonprofit applicant entity for development and packaging of its own loan/grant docket and project may also be reimbursed. Any costs incurred by the entity for its own formation and incorporation are not reimbursable.

(3) The amount to be reimbursed for developing and packaging the loan/grant docket and project are limited by the total development cost (excluding initial operating and capital expenses). Reimbursed costs may range from 2 to 4 percent of total development costs and should reflect costs that are reasonable and typical for the area. In no case will the Agency reimburse in excess of 4 percent.

(4) The packaging costs are not required to be considered a part of the security value of the project.

(5) Related project costs as listed in § 1944.169 of this subpart are not included as a part of the costs for development and packaging of the loan/grant docket and project.

(j) Pay interest which will accrue during the estimated construction period if interim financing is used [or if loan will be closed using multiple advances on daily interest accrual (DIAS) with annual installment and deferred principal]. In the case of multiple ad-

vances when the loan is closed on a predetermined amortization schedule system (PASS) or on DIAS with monthly installments, loan funds will not be used for construction interest. Accrued interest during the construction period will be capitalized when construction is substantially complete and the project is ready for full operation.

(k) Pay normal charges necessary to obtain interim financing.

(l) Pay initial operating expenses up to 2 percent of the development cost for any type applicant except an individual farmowner, family farm corporation or partnership, or an association of farmers.

(m) Pay for related costs incurred in compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and in accordance with § 1944.164(q) of this subpart.

(n) To make advances in accordance with § 1965.217 (d) of subpart E of part 1965 of this chapter to nonprofit corporations and public agencies to avert prepayment of the loan.

(o) Encourage the development of farm labor housing. RHS may award "technical assistance" grants to eligible private and public nonprofit agencies. These grant recipients will, in turn, assist other organizations obtain loans and grants for the construction of farm labor housing. Technical assistance services may not be funded under both this paragraph and paragraph (i) of this section. In addition, technical assistance may not be funded by RHS when an identity of interest exists between the technical assistance provider and the loan or grant applicant. Requests for Proposals (RFP) may be periodically published in the FEDERAL REGISTER by RHS inviting eligible nonprofit organizations to submit LH technical assistance grant proposals. RFPs will contain the amount of available funding, the method of allocating or distributing funds, where to submit proposals, proposal requirements, the deadline for the submission of proposals, the selection criteria, and the

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grant agreement to be entered into between RHS and the grantee.

[45 FR 47655, July 16, 1980, as amended at 50 FR 8590, Mar. 4, 1985; 58 FR 38923, July 21, 1993; 60 FR 4070, Jan. 20, 1995; 67 FR 66311, Oct. 31, 2002]

### § 1944.159 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for payment in installments within a period, not to exceed 33 years, as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Interest rate.* Upon request of the applicant, the interest rate charged by FmHA or its successor agency under Public Law 103-354 will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in exhibit B of FmHA Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103-354 office).

(c) *Amortization schedule.* LH loans, including subsequent loans closed after May 1, 1985, must be on PASS if the project has year-round occupancy and monthly income. LH loans requiring annual installments due to seasonal income may be closed on the daily interest accrual system (DIAS) with monthly or annual payments. All loans on any project receiving a subsequent loan on or after May 1, 1985, must be converted to PASS if the subsequent loan is on PASS. Accounting and processing payments for PASS loans will be handled under subpart K of part 1951 of this chapter.

[45 FR 47655, July 16, 1980, as amended at 50 FR 8591, Mar. 4, 1985; 51 FR 6734, Feb. 26, 1986]

### § 1944.160 Off-farm loan limits.

(a) For all applicants, including its members, who will be receiving any benefits from Low-Income Housing Tax Credits (LIHTC), the amount of the RHS loan will be limited to no more than 95 percent of the total development cost or 95 percent of the security value, whichever is less.

(b) For all applicants, including its members, not receiving any benefits

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from LIHTC, who are nonprofit entities or State or local public agencies, the amount of the RHS loan will be limited to the total development cost or the security value, whichever is less, plus the 2 percent initial operating capital.

(c) For all other applicants, including its members, not receiving any benefits from LIHTC, the amount of the RHS loan will be limited to no more than 97 percent of the development cost or the security value, whichever is less.

[64 FR 24480, May 6, 1999]

### §§ 1944.161-1944.162 [Reserved]

### § 1944.163 Conditions under which an LH grant may be made.

A grant may be made to an eligible applicant only when all of the following requirements can be met:

(a) The applicant will contribute at least one-tenth of the total development cost, obtained from its own resources, including any power to levy taxes, assessments, or charges, with funds from other sources, or with an LH loan. The applicant's contribution must be available at the time of grant closing. If an LH loan is needed, the applicant will file an application for a combination loan and grant at the same time.

(b) The housing and related facilities will fulfill a pressing need in the area in which the housing is or will be located and there is reasonable doubt that such housing can be provided without the grant.

(1) The applicant will furnish FmHA or its successor agency under Public Law 103-354 factual evidence of fulfilling a pressing need. This need will be documented in accordance with exhibits A-1 or A-2 of this subpart, as applicable, and using exhibit A-4 as a guideline if appropriate.

(2) When appropriate, the District Director may check with sources such as the State Department of Labor, Bureau of Employment Security, and other reliable sources to verify the information submitted.

(3) If, after evaluating the information furnished by the applicant and additional information that may be provided, the District Director determines that the housing will fulfill a pressing need and that a reasonable doubt exists